

centage of butterfat, to wit, cocoa butter, which the said article purported to contain.

Misbranding was alleged for the reason that the statements, to wit, "Cocoa Powder Soluble A \* \* \* Cocoa Containing A High Percentage of Butterfat," borne on the labels of the packages containing the article, concerning the article and the substances and ingredients contained therein, were false and misleading in that the said statements represented the article to be soluble, to wit, leaving no sediment, and to contain a high percentage of butterfat, to wit, a higher percentage of butterfat than ordinary cocoa powder, and for the further reason that the article was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it was soluble and contained a high percentage of butterfat, whereas, in truth and in fact, it was not entirely soluble so as to leave no sediment and was no more soluble than ordinary cocoa powder, and did not contain a high percentage of butterfat, and did not contain a higher percentage of or any more cocoa butter than ordinary cocoa powder.

On May 24, 1922, a plea of guilty to the information was entered on behalf of the defendant company, and the court imposed a fine of \$100.

C. F. MARVIN, *Acting Secretary of Agriculture.*

**11405. Misbranding of canned clams. U. S. v. Sargentville Packing Co., a Corporation. Plea of nolo contendere. Fine, \$100. (F. & D. No. 16233. I. S. Nos. 5464-t, 5465-t, 5469-t.)**

On June 30, 1922, the United States attorney for the District of Maine, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Sargentville Packing Co., a corporation, Sargentville, Me., alleging shipment by said company, in violation of the Food and Drugs Act, as amended, in various consignments, namely, on or about March 17, April 2, and April 23, 1921, respectively, from the State of Maine into the State of Massachusetts, of quantities of canned clams which were misbranded. One shipment was labeled in part: "Jack Rose Brand Clams \* \* \* Contents 8 Oz." The other shipment was labeled in part: "Gold Coin Brand \* \* \* Clams \* \* \* Guaranteed By Thorndike & Hix, Inc. To Comply With All Food Laws 5 Oz. Clam Meat 4 Oz. Clam Nectar 9 Oz. Total Weight Packed By Thorndike & Hix, Inc. Rockland, Maine."

Examination of 12 cans of the Jack Rose brand by the Bureau of Chemistry of this department showed an average of 6.7 ounces of clam meat. Examination of 12 cans of the Gold Coin brand by said bureau showed an average of 4.5 ounces of clam meat.

Misbranding of the article was alleged in substance in the information for the reason that the statements, to wit, "Contents 8 Oz." and "5 Oz. Clam Meat," borne on the cans containing the respective brands of the said article, were false and misleading in that the said statements represented that each of the said cans contained 8 ounces or 5 ounces, as the case might be, of the said article, and for the further reason that the article was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that each of said cans contained 8 ounces or 5 ounces of the article, as the case might be, whereas, in truth and in fact, the said cans did not contain the quantity so declared on the said label but did contain a less quantity. Misbranding was alleged for the further reason that the article was food in package form, and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the quantity was incorrectly stated.

On February 8, 1923, a plea of nolo contendere to the information was entered on behalf of the defendant company, and the court imposed a fine of \$100.

C. F. MARVIN, *Acting Secretary of Agriculture.*

**11406. Misbranding of assorted jams. U. S. v. 171 Jars of Assorted Jams. Default decree of condemnation, forfeiture, and sale. (F. & D. No. 16872. I. S. Nos. 1330-v, 1331-v, 1332-v, 1333-v. S. No. E-4195.)**

On October 17, 1922, the United States attorney for the Eastern District of Virginia, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying the seizure and condemnation of 171 jars of assorted jams, remaining unsold in the original packages at Norfolk, Va., alleging that the article had been shipped by the S. J. Van Lill Co., Baltimore, Md., on or about August 2, 1922, and transported from the State of Maryland into the State of Virginia, and charging misbranding in violation of the Food and Drugs Act, as amended. The article was labeled in part: "Table Delicacies Pure Fruit Jam Blackberry-

Apple" (or "Pineapple-Apple," "Peach-Apple," or "Damson-Apple") "Contents 12 Ozs. Prepared By S. J. Van Lill Co., Baltimore, Md."

Misbranding of the article was alleged in the libel for the reason that the statement appearing on the label of the jars containing the said article, to wit, "Contents 12 Ozs.," was false and misleading and deceived and misled the purchaser in that the contents of the said jars was less than 12 ounces. Misbranding was alleged for the further reason that the article was food in package form, and the quantity of the contents was not plainly and conspicuously marked on the outside of the package since the statement, to wit, "Contents 12 Ozs.," was incorrect.

On March 9, 1923, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be sold by the United States marshal.

C. F. MARVIN, *Acting Secretary of Agriculture.*

**11407. Misbranding and alleged adulteration of canned oysters. U. S. v. 59 Cases of Canned Oysters. Consent decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 17015. I. S. No. 7787-v. S. No. W-1248.)**

On December 7, 1922, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying the seizure and condemnation of 59 cases of canned oysters, remaining in the original unbroken packages at Seattle, Wash., alleging that the article had been shipped by the Dunbar-Dukate Co., New Orleans, La., September 16, 1922, and transported from the State of Louisiana into the State of Washington, and charging adulteration and misbranding in violation of the Food and Drugs Act, as amended. The article was labeled in part: (Cans) "Eagle Brand Cove Standard Oysters Packed by Dunbar-Dukate Co. New Orleans, La. Biloxi, Miss. Net Contents 5 Oz. Oyster Meat."

Adulteration of the article was alleged in the libel for the reason that water or brine had been mixed and packed with and substituted wholly or in part for the said article.

Misbranding was alleged for the reason that the statement appearing on the cans containing the article, "Net Contents 5 Oz. Oyster Meat," was false and misleading and deceived and misled the purchaser. Misbranding was alleged for the further reason that the article was food in package form, and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On February 20, 1923, the Dunbar-Dukate Co., Inc., having entered an appearance as claimant for the property and having confessed judgment, a decree of condemnation and forfeiture was entered on the ground that the product was misbranded, and it was ordered by the court that the product be released to the said claimant upon payment of the costs of the proceedings and the execution of a good and sufficient bond, in conformity with section 10 of the act, conditioned in part that it be relabeled under the supervision of this department.

C. F. MARVIN, *Acting Secretary of Agriculture.*

**11408. Misbranding and alleged adulteration of canned oysters. U. S. v. 84 Cases and 49 Cases of Oysters. Consent decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 17039. I. S. Nos. 7797-v, 7798-v. S. No. W-1257.)**

On December 16, 1922, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying the seizure and condemnation of 133 cases of oysters at Tacoma, Wash., alleging that the article had been shipped by the Dunbar-Dukate Co., from New Orleans, La., March 8, 1922, and transported from the State of Louisiana into the State of Washington, and charging adulteration and misbranding in violation of the Food and Drugs Act, as amended. A portion of the article was labeled in part: (Cans) "Pelican Brand Cove Oysters Packed by Dunbar-Dukate Co. New Orleans, La. Biloxi, Miss. Net Contents 8 Ounces Oyster Meat." The remainder of the article was labeled in part: (Cans) "Blue Jay \* \* \* Oysters Packed By Dunbar-Dukate Co. \* \* \* Net Contents 4 Ounces Oyster Meat."

Adulteration of the article was alleged in the libel for the reason that excessive brine had been substituted in part for the said article.